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Staff: Trever Parker
Staff Report: December 2, 2005
Hearing Date: December 14, 2005
Commission Action: Denied
Appealed: January 31, 2006
Project Revised: April 27, 2006
2nd Hearing Date: June 21, 2006
Commission Action:

STAFF REPORT: CITY OF TRINIDAD

APPLICATION NO: 2005-13a

APPLICANT (S): US Cellular

AGENT: Thomas McMurray

PROJECT LOCATION: Trinidad Head
Trinidad, CA 95570

PROJECT DESCRIPTION: Design Review, Coastal Development Permit and Conditional Use Permit to install two antennas on existing 20' poles; new equipment cabinets will be installed within the existing fenced area.

ASSESSOR'S PARCEL NUMBER: 042-121-05

ZONING: OS – Open Space

GENERAL PLAN DESIGNATION: OS – Open Space

ENVIRONMENTAL REVIEW: Categorically Exempt from CEQA per § 15301 of the CEQA Guidelines exempting alteration of and minor additions to existing facilities.

APPEAL STATUS:

Planning Commission action on a coastal development permit, a variance or a conditional use permit, and Design Assistance Committee approval of a design review application will become final 10 working days after the date that the Coastal Commission receives a "Notice of Action Taken" from the City unless an appeal to the City Council is filed in the office of the City Clerk at that time. Furthermore, this project **X** **is** ~~is not~~ appealable to the Coastal Commission per the requirements of Section 30603 of the Coastal Act.

SITE CHARACTERISTICS:

Trinidad Head is zoned OS – Open Space with a variety of roads, trails, benches, signs and vista points. Other existing improvements include the communication facility, the Coast Guard Lighthouse and NOAA air monitoring sites. This project involves the addition of antennas on existing poles and installation of new equipment cabinets within the existing, fenced communication site. The existing communication facility was originally installed by Cox Cable prior to 1983. It was redeveloped by Cal-North Cellular in 1997, with additions in 1999, 2000 and 2001 and 2003 for use as a cellular service facility. Previously it had been a cable television transmission site. There is currently a 41' pole (original 21' pole with 20' extension) and a 21' pole (part of original cable facility) and a 50' pole added in 2001, a small equipment shed and two transmitter cabinets. There is also a 6' fence, topped with barbed wire, with two separate gates, that surrounds the site. Cal-North (recently purchased by Verizon) has a lease with the City of Trinidad, and Cal-North subleases the site to other communication companies (Sprint and Edge Wireless). The NOAA weather station site is located approximately 40' north of the existing communication site and contains a trailer and several other structures, including the large Coast Guard tower, and a variety of weather monitoring equipment. The Federal site also appears to be utilized by other entities as well (i.e. Scripps Institute). This revised project will require no new access, utilities or ground disturbance.

STAFF COMMENTS:

Several alternatives have been submitted for this project. Originally a new cellular site was proposed adjacent to the existing one with a new, 50' pole. A couple of alternative locations were proposed to staff prior to the first Planning Commission hearing, but City staff decided that a location slightly north west of the existing site would have the least visual and ground disturbing impacts, and that is the site that was discussed at the December 14, 2005 and January 18, 2006 public hearings. At the Commission hearings, the applicant's agent presented a couple of alternatives, including reducing the height of the pole, and decreasing the size of the equipment building. The hearing was continued from December to January, and the Commission denied the project at their January 18, 2006 w/out prejudice, which allows the applicant to propose a new alternative without waiting a year to submit a new application. That decision was appealed to the City Council by the applicant on January 31, 2006, within the appeal period. Because of workloads and scheduling conflicts, the appeal hearing was not scheduled until mid-May. On April 27, 2006 the applicant submitted a new alternative that eliminated the need for a new or expanded cellular facility. The currently proposed project will add the two necessary antennas to existing poles and the equipment cabinets will be installed within the existing fenced site. Although, according to City Ordinances, the Council could have made a decision on the revised project, On May 9, 2006 the Council decided to send the revised project back to the Planning Commission for public hearing. The Council felt that the project had been altered substantially, so that the best procedure would be for it to go through the Planning Commission, and to obtain the Commission's and the public's input on the project.

The City Council has given their approval as the landowner only to submit the application, which is not an endorsement of the project. The applicant has provided a site plan and elevations detailing the altered project as well as a written description. The applicant has also placed mock-ups of the proposed antennas for viewing by the public. The applicant has provided additional information in response to comments received on the project thus far. This includes a radio frequency analysis of the Trinidad Head site, and information on Federal permit requirements. This facility is subject to Federal environmental and historic preservation laws (webpage attached), but those procedures can not be completed until the applicant has a lease for the facility. The scaled down project currently being proposed is much simpler than the previous project, not only in terms of the physical aspects, but also for the permit processing. Some of the concerns discussed at previous hearings are not applicable to this project, and the regulations governing this version of the project are much clearer.

Referrals for the previous project were sent to the City Engineer, Building Official and Coastal Commission. The Engineer did not have any specific comments on the project at this level of review, but noted that he could respond to any specific concerns. The Building Official noted that a building permit would be required for the equipment shelter, but would not be required in this case if they total less than 100 sq. ft. The Coastal Commission submitted a letter commenting on the previous version of this project, some of which still apply, and my memo in response addresses those concerns. Coastal Commission staff have concerns about cumulative impacts on aesthetics and coastal resources as well as past interpretations of the City's Local Coastal Plan (LCP). They acknowledge that some of the zoning ordinance provisions are open to interpretation, so that even the previous proposal could be allowable, but they urge the City to prepare an overall management plan for communication facilities on the Head prior to approving any more projects. Staff agrees that a management plan for Trinidad Head is appropriate, and it can be included as part of an upcoming General Plan update.

Because of its location and topography, Trinidad Head is an ideal location for the construction of these types of facilities, and more proposals could be expected in the future. Trinidad Head is an important coastal, aesthetic, and cultural resource and has been slated for low-intensity recreation and open space by regulating agencies. The current lease agreement that the City has with Cal-North Cellular requires them to allow co-location for other communication service providers whenever feasible, but the opportunities for this are running out. Based on staff recommendation, the Planning Commission made an official recommendation to the City Council that they create a detailed development / management plan for communication facilities on the Head prior to any further development outside of the existing site.

Between the time of the original Planning Commission decision and now, at least two letters have been sent to the Bureau of Land Management (BLM), who managed the land prior to transferring it to the City of Trinidad in 1985. These letters allege that the City has been mismanaging Trinidad Head in conflict with the transfer agreement with BLM and with its own ordinances. These allegations, if true, would mean that the original redevelopment of the site in 1997 and subsequent approvals were illegal. However, none

of these decisions were challenged or questioned in the past, and almost 10 years later, and without any substantiation, staff must presume that the existing site is legal, and process the permit application under that assumption. This puts the Planning Commission in a difficult position. The City Council and the City Attorney are currently researching the validity of the allegations against the City. The Planning Commission does not have the same information as the City Council because they are not privy to the confidential correspondence and closed session discussions of the Council. However, staff sees this larger issue as something separate from the proposal before the Commission now. The City has not yet received a response from BLM, and there is no indication of when one might be forthcoming. Staff must analyze this application on its merits in terms of the City's Local Coastal Plan (General Plan and Zoning Ordinance). The City Attorney has advised staff that approving this application would not place the City in a worse position than it is now if the existing site were to be determined to be illegal. The applicants should be aware of the situation and will have to proceed at their own risk if this project is approved. In order to address the concerns over this potential conflict and to minimize the risk to both the City and the applicant, a condition of approval has been proposed that the applicant must hold off construction until the City receives either a consistency determination for the existing communication site, or an indication that such a determination is outside of their jurisdiction or otherwise will not be made.

Background

Trinidad Head was transferred to the City in 1983 from the Bureau of Land Management (BLM). That transfer included several commitments by the City. One was *"to develop and manage the lands for recreational purposes in accordance with the approved program of utilization that includes (1) a plan of development, and (2) a plan of management."* The City's development plan, according the BLM staff report *"proposes non-intensive recreational use of the Head, including hiking, viewing, picnicking, and associated day-use activities."* The entire consistency analysis for the transfer was based on this management plan. The documents also include a provision that *"the property would revert to the U.S. Government if the City did not use the property for its approved and intended use, tried to transfer title to another party..."*; this includes any subdivision. There is a provision in the City's management plan that was submitted to the BLM that states: *"The City will continue to coordinate with the Cable T.V. company and any future, similar-type users that provide a public service, and where use does not conflict with the primary purposes of open space and public recreation."* This, along with General Plan policies and Open Space zoning regulations, gives the Planning Commission some standards and basis for approval of this project, and should a part of the findings used to make a decision on this project.

Based on file information, it appears that the existing communication site was developed as a cable television site prior to the annexation of the Head in 1983; the weather station was also partially developed at that time. I am lacking information on what occurred between the time of annexation and the 1997 Cal North Cellular pole approval. The staff report for the 1997 project describes an existing pole and equipment building on the site at the time, presumably associated with the cable facility. Further additions to the existing site (in the form of new equipment) were approved in 2000, 2002 and 2003. Cal North

subleases for co-located facilities on their site with Sprint and Edge Wireless. Originally, the applicant had determined that there was not enough space on the existing site to accommodate the desired project, therefore, an additional site was proposed. Since that time, and due to public and City concerns, the applicant has scaled down the project and, working with the primary lease holder, has found a way to accommodate new antennas on existing poles. Associated equipment will also be located within the fencing of the existing cellular facility. The applicant has stated that U.S. Cellular's current service in the Trinidad area is inadequate, and these new antennas will help alleviate those shortcomings.

ZONING ORDINANCE/GENERAL PLAN CONSISTANCY:

The proposed facility falls under the City's, and Coastal Act's definition of development, but would normally fall under the permit exemptions except that it is located in an Open Space Zone, where none of the exemptions apply. Therefore it needs a Coastal Development Permit and Design Review. Because the Head is zoned Open Space, a use permit is also required, and conditional use permit findings per §17.72.040 need to be made. The purpose of the Open Space zone is to: *"maximize preservation of the natural and scenic character of these areas including protection of important wildlife habitat and cultural resources, and to ensure that the health and safety of the public is ensured through careful regulations of development in areas affected by geologic instability, steep slopes, tsunامي and flood hazards."* Principally permitted uses in the OS zone include low intensity recreation such as hiking and picnicking and removal of hazardous vegetation, but no structural development. Uses permitted with a use permit include trails and vista points, wildlife habitat management, scientific research, removal of vegetation and shoreline protection structures. Applicable to this project, conditionally permitted uses also include: *"Structures accessory to uses and buildings existing within the open space zone at the time the ordinance codified in this title is adopted."* As noted above, the communication and weather sites were established in some form prior to the annexation of the property into the City of Trinidad. Based on past project approvals, this provision has been interpreted to mean the use of the site in general by communication facilities that provide a public service. This was fairly straightforward in the four most recent approvals because they were all contained within the fenced area of the existing site. This case is exactly the same as those previous proposals as it is only proposing to place new antennas on existing poles and additional equipment cabinets within the fenced area.

Minimum lot size does not apply to this project; subdivisions are not allowed in Open Space zones. Density restrictions also do not apply to this project, and no new dwellings are allowed in an Open Space area. The maximum building height within the OS zone is 15', which the equipment cabinets will meet. The antenna is not a "building" subject to this limitation. However, zoning ordinance §17.16.060 states that all structures allowed in the OS zone must also meet the requirements of the Special Environment regulations, §17.20.060 – 17.20.130. Section 17.20.060 restricts building heights to 25 feet. As mentioned above, the pole is not a building, but the OS zone §17.16.060 refers other structures to this section, implying that it may be a height limit for any structures. Section 17.56.100 of the zoning ordinance provides further guidance on measuring height. This section reads: *"Heights of buildings and structures shall be measured vertically from the*

average ground level of the ground covered by the building to the highest point of the roof. Chimneys, vents, flagpoles, conventional television reception antennas, ventilating and air conditioning equipment, parapet walls and similar architectural and mechanical appurtenances shall be excluded in making such measurement." The transmission antenna could be considered to fit in to the second section as a 'mechanical appurtenance' or similar to a flagpole or T.V. antenna. As far as the other applicable SE zone regulations, the project is not within the tsunami hazard area, not on an ocean bluff, not on a slope near a bluff, not in a stream protection area and not within the Tsurai Study Area. Section 17.20.120 requires that portions of a SE zoned lot not within a construction area be protected by an open space easement between the landowner and the City. In this case, the property is already protected through the open space zoning and the City owns the property, so this section is not applicable. Section 17.20.130 outlines requirements for development on lands designated as unstable or of questionable stability; which this project is not.

Zoning Ordinance §17.16.080 protects cultural resources and applies to Open Space areas within the Tsurai Study Area. Although this project is not within the specified area, another cultural protection provision applies. The transfer of the Trinidad Head property included a condition regarding survey and protection of archeological resources. However, this project will not involve any new ground disturbance and therefore does not have the potential to impact unknown archeological resources.

The General Plan Policy 17 (p. 15) encourages minimizing development on Trinidad Head in order to protect rare plants and animals that exist there. Trinidad Head has been identified in General Plan background documents as being habitat for the Western Lily (*Lilium occidentale*), and possibly other rare plants as well. However, since this project will not involve any new ground disturbance, this concern is not an issue. Policy 66 (p. 39) states that: *"Trinidad Head will be kept in its natural state with hiking trails and vista points."* This project is not fully consistent with this policy, but neither are any of the Federal facilities. The Cox Cable site was already in existence when this policy was adopted. Based on the City's management plan for the Head, which includes the provision that: *"The City will continue to coordinate with the Cable T.V. company and any future, similar-type users that provide a public service, and where use does not conflict with the primary purposes of open space and public recreation;"* and considering other development on the Head, this project can be approved.

Finding: The proposed use provides a public service and meets a public need. The proposed use does not conflict with the primary purposes of open space and public recreational use of the Head. The project is consistent with the City's Local Coastal Program, including the Zoning Ordinance and General Plan.

SLOPE STABILITY

The property where the proposed project is located is outside of any areas designated as unstable or questionable stability based on Plate 3 of the Trinidad General Plan. Standard

erosion control and drainage best management practices will be required during construction.

SEWAGE DISPOSAL

There is no sewage disposal associated with this project.

USE PERMIT FINDINGS:

Section 17.72.040 requires written findings to be adopted in approval of a use permit. The following findings can be made based on the responses provided:

- A. The proposed use at the site and intensity contemplated and the proposed location will provide a development that is necessary or desirable for and compatible with the neighborhood or the community. *Response: Trinidad Head is undeveloped except for the Coast Guard facilities, a weather monitoring station, the existing communications site and public trails, benches and vista points. The proposed project is within the fenced area that is already developed and will provide a public service. It will not be any more visible than existing improvements and will not interfere with public recreational uses.*
- B. Such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity or injurious to property improvements or potential development in the vicinity with respect to aspects including but not limited to the following:
 - 1. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures; *Response: The proposed project will not alter the size or shape of the existing site.*
 - 2. The accessibility of the traffic pattern for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading; *Response: Vehicular access on the Head is restricted for the general public and the site already has ample access and parking. The new antennas and new provider will require four inspections per year once the construction is complete. The only additional traffic would be in case of a system failure, which would add approximately two additional vehicle trips per year.*
 - 3. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor; *Response: The proposed improvements, as conditioned, will not result in any offensive emissions, including noise, glare, dust and odor. Some dust may result from construction activities, but this will only be temporary. The mechanical equipment will be required to be contained within the proposed building, which will be designed to minimize any noise impacts. The applicant is responsible for assuring that equipment noise not leave the site and increase existing ambient noise levels.*

4. Treatment given, as appropriate, to such aspects as landscaping, screening, open space, parking and loading areas, service areas, lighting and signs; *Response: The applicant has stated that the site will not require landscaping or screening because it is already existing. If the Commission finds that landscaping is necessary, it should be of native species that are normally found on the Head. Traffic is addressed above. The project does not include any lighting or signs.*
- C. That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformity with the Trinidad coastal program. *Response: As described above in "Zoning Ordinance/General Plan Consistency," the proposed project can be found to be consistent with both the Zoning Ordinance, General Plan and the City's management plan for the Head, and will carry out policies, consistent with the Trinidad Coastal Program.*
- D. That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment. *Response: The proposed improvements will be within a small area. Conditions of approval have been included in order to minimize potential impacts. The project is exempt from CEQA per §15301, exempting minor alterations of and additions to existing facilities.*
- E. When the subject property is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater, that:
1. The development provides adequate physical access or public or private commercial use and does not interfere with such uses; *Response: The project will utilized existing access roads and will not impact public access to the shore or to the existing trail system.*
 2. The development adequately protects public views from any public road or from a recreational area to, and along, the coast; *Response: The new antennas will not be substantially more visible than other existing improvements and will not interfere with public views. Although the entire Head is open for public access other than the Federal facilities, the site is not adjacent to an officially designated public road or trail.*
 3. The development is compatible with the established physical scale of the area; *Response: The project will be located within the existing, fenced communication site.*

4. The development does not significantly alter existing natural landform; *Response: The project will not alter any landforms.*
5. The development complies with shoreline erosion and geologic setback requirements. *Response: Trinidad Head is not an area mapped as being unstable or questionably stable on Plate 3 of the General Plan. The project will not be near the edge of bluff; the proposed improvements will not contribute to instability.*

DESIGN REVIEW/VIEW PRESERVATION FINDINGS:

This project is subject to the Design Review and View Preservation criteria set by Zoning Ordinance Section 17.60. The following findings can be made based on the responses provided.

Design Criteria

- A. The alterations of natural land forms caused by cutting, filling and grading shall be minimal. Structures should be designed to fit the site rather than altering the land form to accommodate the structure. *Response: Only minor disturbance of the soil will be required to construct the proposed improvements.*
- B. Structures in, or adjacent to open space areas should be constructed of materials that reproduce natural colors and textures as closely as possible. *Response: The project is located in an open space area, but improvements will be located within the existing, fenced communication facility, screening it from view. The antennas are consistent with existing development.*
- C. Materials and colors used in construction shall be selected for compatibility both with the structural system of the building and with the appearance of the building's natural and manmade surroundings. Preset architectural styles (e.g. standard fast food restaurant designs) shall be avoided. *Response: The proposed improvements are consistent with existing development on the site.*
- D. Plant materials should be used to integrate the manmade and natural environments to screen or soften the visual impact of new development, and to provide diversity in developed areas. Attractive vegetation common to the area shall be used. *Response: The proposed project will not be readily visible from public trails and vista points any more than the existing facilities. Several large trees and shrubs are adjacent to the site and have been retained to help screen it and the existing facilities. The applicant has not proposed additional landscaping, and it can be found to be unnecessary for this project.*
- E. On-premises signs should be designed as an integral part of the structure and should complement or enhance the appearance of the surrounding area. *Response: The project does not include any on-premise signs.*

- F. New development should include underground utility service connections. When above ground facilities are the only alternative, they should follow the least visible route, be well designed, simple and unobtrusive in appearance, have a minimum of bulk and make use of compatible colors and materials. *Response: The proposed improvements will utilize the existing electrical connection to the existing site from the pole across the access road.*
- G. Off-premise signs needed to direct visitors to commercial establishments, as allowed herein, should be well designed and be clustered at appropriate locations. Sign clusters should have a single design theme. *Response: No off-premise signs are proposed as part of this project.*
- H. When reviewing the design of commercial or residential buildings, the committee shall ensure that the scale, bulk, orientation, architectural character of the structure and related improvements are compatible with the rural, uncrowded, rustic, unsophisticated, small, casual open character of the community. In particular:
1. Residences of more than two thousand square feet in floor area and multiple family dwellings or commercial buildings of more than four thousand square feet in floor area shall be considered out of scale with the community unless they are designed and situated in such a way that their bulk is not obtrusive.
 2. Residential and commercial developments involving multiple dwelling or business units should utilize clusters of smaller structures with sufficient open space between them instead of a consolidated structure.
- Response: Only small equipment cabinets and antennas on existing poles are proposed.*

View Protection Criteria

- A. Structures visible from the beach or a public trail in an open space area should be made as visually unobtrusive as possible. *Response: The project is located within an open space area, but will be located within the existing fenced facility and, will not be readily visible from public trails and vista points as it will be screened by existing development. The applicant has proposed the improvements within the existing fenced facility in order to minimize impacts.*
- B. Structures, including fences over three feet high and signs, and landscaping of new development, shall not be allowed to significantly block views of the harbor, Little Trinidad Head, Trinidad Head or the ocean from public roads, trails, and vista points, except as provided in subdivision 3 of this subsection. *Response: The proposed improvements will not significantly block views.*
- C. The committee shall recognize that owners of vacant lots in the SR and UR zones, which are otherwise suitable for construction of a residence, are entitled to construct a residence of at least fifteen feet in height and one thousand five hundred square feet in floor area, residences of greater height as permitted in the applicable zone, or

greater floor area shall not be allowed if such residence would significantly block views identified in subdivision 2 of this subsection. Regardless of the height or floor area of the residence, the committee, in order to avoid significant obstruction of the important views, may require, where feasible, that the residence be limited to one story; be located anywhere on the lot even if this involves the reduction or elimination of required yards or the pumping of septic tank wastewater to an uphill leach field, or the use of some other type of wastewater treatment facility; and adjust the length-width-height relationship and orientation of the structure so that it prevents the least possible view obstruction. *Response: There is no residence proposed as part of this project.*

- D. If a residence is removed or destroyed by fire or other means on a lot that is otherwise usable, the owner shall be entitled to construct a residence in the same location with an exterior profile not exceeding that of the previous residence even if such a structure would again significantly obstruct public views of important scenes, provided any other nonconforming conditions are corrected. *Response: There is no residence proposed as part of this project.*
- E. The Tsurai Village site, the Trinidad Cemetery, the Holy Trinity Church and the Memorial Lighthouse are important historic resources. Any landform alterations or structural construction within one hundred feet of the Tsurai Study Area, as defined in the Trinidad general plan, or within one hundred feet of the lots on which identified historical resources are located shall be reviewed to ensure that public views are not obstructed and that development does not crowd them and thereby reduce their distinctiveness or subject them to abuse or hazards. *Response: The proposed improvements are not within 100' of the Tsurai Village Site, Trinidad Cemetery, Holy Trinity Church or the Memorial Lighthouse.*

STAFF RECOMMENDATION:

The project is consistent with the City's Zoning Ordinance and General Plan and the necessary findings for granting approval of the project can be made. Should the Planning Commission find that the Use Permit and Design Review/View Protection Findings can be made, then staff recommends that the Planning Commission approve the project with a motion similar to the following:

Based on application materials, information and findings included in this Staff Report, and based on public testimony, I move to adopt the information and required findings and approve the project as submitted and as conditioned below.

Alternative Motion for Denial

If the Commission does not agree with staff's analysis, or if the public presents evidence that conflicts with the findings contained in this staff report, the Commission may choose to deny the project. If the Commission does decide to deny the project, the denial should be based on specific findings that can not be made. The Commissioners should specifically

state the reasons for denial and which finding(s) can not be made. A motion could be similar to the following:

Based on public testimony and information included in the application, I find that Use Permit/Design Review/View Protection Finding(s) “---” can not be made because ---, and I move to deny the project.

CONDITIONS OF APPROVAL

1. The applicant is responsible for reimbursing the City for all costs associated with processing the application. *Responsibility: City Clerk prior to building permits being issued.*
2. Based on the findings that community values may change in a year's time, design review approval is for a one-year period starting at the effective date and expiring thereafter if construction has not been started, unless an extension is requested from the Planning Commission prior to that time. *Responsibility: City Clerk prior to building permits being issued.*
3. Recommended conditions of the City Building Official shall be required to be met as part of the building permit application submittal. *Responsibility: Building Official prior to building permits being issued.*
4. If any equipment installed as part of this project becomes unserviceable or unused, it must be removed at the applicant's expense. *Responsibility: City Planner or Building Inspector to enforce should conditions warrant.*
6. Erosion control measures shall be taken during and after construction to minimize soil loss and runoff. *Responsibility: Building Official to confirm during inspection(s)*
7. The applicant shall design the equipment building and any other noise generating sources so that noise levels are not above pre-project ambient noise levels as measured at the southern boundary of the existing Cal-North Cellular site. *Responsibility: City Planner to verify after site is in operation and periodically as necessary.*
8. Construction shall not occur until after the City receives verification from BLM that the existing communications site, and therefore this project, is consistent with the land transfer agreement for Trinidad Head or until after the City receives information that BLM will not make such a determination. *Responsibility: Building Official prior to building permits being issued.*

PWM INC.

P.O. Box 1032 2039 Williams Street, Eureka, CA. 95502 Phone: (707) 442-8420 Fax: (707) 442-8499

June 15, 2006

Chairman Bryce Kenny and Commissioners
Trinidad Planning Commission
City of Trinidad
P.O. Box 390
Trinidad, California 95570

Re: United States Cellular-Trinidad Head Cellular Site

Dear Planning Commissioners

We have previously submitted an additional alternate for the location of the above captioned facility. The location would be within the presently fenced Cal North Wireless (Verizon) existing site.

There would be two antennas, one on each of the existing 20- foot approximate poles installed by Cox cable in 1991. This frame supports the existing six (6) foot microwave dish. The panels would be 96" in length, 11.2 inches in width and 4.5 inches in depth and would protrude approximately 24 inches above the top of the poles. (See attached photos and Site plan) The antennas would be painted to closely match the color of the poles

All of the cellular equipment would be located within the existing fenced area and contained in three (3) steel cabinets, 26" wide, 6 ft. max in height and 6', 6'5" and 3' in length, installed on a new concrete pad. No generator would be installed at this site. We previously proposed four (4) alternatives:

1. A new site with a 50 foot pole located directly in front of the existing site with a 10' x12' communication building
2. A new site directly behind the Cal North site with a 50 foot pole with a 10' x 12' communication building.
3. The same site as # 2 with a 35' pole and a 8' x 8' building
4. The same site as # 2 with a 35' pole and cabinets in lieu of any Building
5. The newly proposed alternative: No new poles, no building and the equipment contained in steel cabinets on a concrete slab per the submitted site plan.

We have previously submitted coverage studies at the prior public hearings. Attached is a radio frequency study that shows that the site is in compliance with FCC requirements including the proposed U.S. Cellular antennas. Below are listed previous findings for Cellular installations on Trinidad Head:

PREVIOUS USE PERMIT FINDINGS FOR CELLULAR INSTALLATIONS ON TRINIDAD HEAD ADOPTED BY THE PLANNING COMMISSION AND OR THE TRINIDAD CITY COUNCIL

Exempt from CEQA per Section 1530(b) of the CEQA Guidelines exempting additions to existing facilities.

A. The proposed use at this site and intensity contemplated and the proposed location will provide a development that is necessary or desirable for and compatible with the neighborhood and the community.

B. Such use as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity or injurious to property improvements or potential development in the vicinity with respect to aspects including but not limited to the following:

1. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;
2. The accessibility of the traffic pattern for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;
3. The safeguards, afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor.
4. Treatment given, as appropriate, to such aspects as landscaping, screening, open space, parking and loading areas, service areas, lighting and signs, and

C. That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformance with the Trinidad coastal program.

D. That the proposed use or feature will have to significant adverse environmental impact or there are no feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant impact that the actions allowed by the conditional use permit may have on the community.

E. When the subject property is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is greater, that:

1. The development provides physical access or public or private commercial use and does not interfere with such uses;

2. The development adequately protects public views from any public road or from a recreational area to, an along, the coast.

3. The development is compatible with the established physical scale of the area,

4. The development does not significantly alter existing landform,

5. The development complies with shoreline erosion and geologic setback requirements

We believe that confining the U.S. Cellular project to the use of the existing site, the installation of panel antennas on existing poles and the use of cabinets instead of a new building, will mitigate all impacts of this project to the maximum extent feasible. Also, it will allow U.S. Cellular the same rights and privileges granted previously to other carriers by the City of Trinidad for Cellular/PCS installations on Trinidad Head.

Thank you for the opportunity to submit this information.

Respectfully,

Thomas J. McMurray Jr.

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Enclosures:

cc: Ms. Trever Parker, Streamline Planning



Wireless Telecommunications Bureau

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Tree Line USA Program recognizes utilities demonstrating practices that protect America's urban forests.

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MB's NPRM

Concerning Preemption of Local Regulations on the Siting of Broadcast Facilities

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Environmental and Historic Preservation

The [National Environmental Policy Act \(NEPA\)](#) requires all Federal agencies to implement procedures to make environmental consideration a necessary part of an agency's decision-making process. As a licensing agency, the Commission complies with NEPA by requiring Commission licensees and applicants to review their proposed actions for environmental consequences. FCC rules implementing NEPA are found at [Title 47 of the Code of Federal Regulations, Part 1, Subpart I, rule sections 1.1301 to 1.1319](#). If a licensee's proposed action falls within one of the categories listed in section 1.1307, section 1.1308(a) requires the licensee to consider the potential environmental effects from its construction of antenna facilities or structures, and disclose those effects in an environmental assessment (EA) which is filed with the Commission for review. The Commission solicits public comment on the EAs and assists its licensees in working with the appropriate local, state, and federal agencies to reach agreement on the mitigation of potential adverse effects. The filing of an EA is required when a proposed facility may have an a significant on historic properties.

The National Historic Preservation Act (NHPA) in 1966 is one of the federal environmental statutes implemented in the FCC's NEPA rules. Under the NHPA, federal agencies are required to consider the effects of federal undertakings on historic sites. Commission licensees and applicants must comply with NHPA procedures for proposed facilities that may affect sites that are listed or eligible for listing in the National Register of Historic Places. This process includes consultation with the relevant State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) to whether the proposed facility may create an adverse effect on an eligible or listed historic property. Other regulations that define the process have been promulgated by the Advisory Council on Historic Preservation and may be found at [36 C.F.R. Part 800, Subpart B](#).

Nationwide Programmatic Agreement

On October 5, 2004, the Commission entered into a Nationwide Programmatic Agreement with the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers regarding the Section 106 National Historic Preservation Act Review Process. For more information see,

- [Nationwide Programmatic Agreement](#), including:
 - The final agreement text
 - The released Report and Order
 - A learning interactive unit
- [Federal Register release](#) (January 4, 2005)

NEPA & NHPA Compliance

- [Guidelines on NEPA Compliance](#)
- [Frequently Asked Questions Concerning NEPA Compliance](#)
- [NEPANet-A One Stop Shop for NEPA Related Information](#)

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Determine Interference
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The World of Wireless
Communications

- Advisory Council on Historic Preservation
 - [Delegation Letter for Section 106 Review](#)
 - [Advisory Council on Historic Preservation Home Page](#)
- [Sample Memoranda of Agreement Under the NHPA](#)
- Indian Tribal Contacts
 - [Tribal Historic Preservation Officers](#)
 - [Tribal Leaders Director](#) (Bureau of Indian Affairs)
- On August 10, 1998, the Commercial Wireless Division released an order granting the application of Mid-Missouri Cellular to construct a tower that would affect a district listed on the National Register of Historic Places. This order clarifies licensees' responsibilities in complying with the National Historic Preservation Act. - [MO&O](#)
- [Code of Federal Regulations, Chapter 1, Title 47, Part 1, Subpart I](#)

Collocation Programmatic Agreement

On March 16, 2001, the Commission, the National Conference of State Historic Preservation Officers, and the Advisory Council on Historic Preservation (ACHP) entered into a nationwide programmatic agreement to streamline procedures for review of antenna collocations under the National Historic Preservation Act (NHPA), 16 U.S.C. ss 470 *et seq.* Under the programmatic agreement, most collocations on existing structures are exempted from the procedures set forth in the ACHP rules. The programmatic agreement is intended to relieve unnecessary administrative burdens on the Commission's licensees, tower construction and management companies, State Historic Preservation Officers, and the Commission, while protecting the goals of the NHPA.

1/10/2002

PUBLIC NOTICE (DA 02-28)

[The Wireless Telecommunications Bureau and Mass Media Bureau announce the Release of a Fact Sheet Regarding the March 16, 2001 Antenna Collocation Programmatic Agreement](#)

[pdf](#) - [text](#) - [Word](#)

FactSheet: [pdf](#) - [text](#) - [Word](#)

3/16/2001

PUBLIC NOTICE (DA 01-691)

[Wireless Telecommunications Bureau Announces Execution of Programmatic Agreement with respect to Collocating Wireless Antennas on Existing Structures](#)

[pdf](#) - [text](#) - [Word](#)

News Release: [html](#) - [text](#) - [Word](#)

Agreement: [text](#) - [pdf](#) - [Word](#)

Statement of Commissioner Tristani: [html](#) - [text](#) - [Word](#)

U.S. Fish & Wildlife Service Issues

Section 1.1307(a)(3) of the Commission's rules, 47 C.F.R. §1.1307(a)(3), requires applicants, licensees, and tower owners (Applicants) to consider the impact of proposed facilities under the Endangered Species Act (ESA), 16 U.S.C. s. 1531 *et seq.* Applicants must determine whether any proposed facilities may affect listed, threatened or endangered

species or designated critical habitats, or are likely to jeopardize the continued existence of any proposed threatened or endangered species or designated critical habitats. Applicants are also required to notify the FCC and file an environmental assessment if any of these conditions exist. The [U.S. Fish and Wildlife Service \(FWS\)](#) provides information that Applicants may find useful regarding compliance with the ESA.

In addition, FWS has formulated and published voluntary guidelines for the siting of towers intended to address potential effects on migratory birds. These guidelines and an accompanying tower site evaluation form are posted at [U.S. Fish and Wildlife Service, Bird Issues](#). According to FWS, the guidelines reflect FWS' judgment of "the most prudent and effective measures for avoiding bird strikes at towers."

Non-Federal Representative Status

On July 9th, 2003, the Commission sent a designation letter to the Director, U.S. Fish and Wildlife Service (FWS), allowing Commission licensees, applicants, tower companies and their representatives to act as non-federal representatives for purposes of consultation under Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. §§ 1531-1543). This designation was made pursuant to 50 C.F.R. § 402.08.

- [Designation letter for non-federal representatives seeking consultation with the U.S. Fish & Wildlife Service under Section 7 of the Endangered Species Act of 1973.](#)

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Last reviewed/updated on 10/28/2004.

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